

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

1) CITY OF OWASSO, OKLAHOMA, A)
MUNICIPAL CORPORATION,)
PLAINTIFF,)
v.)
1) UNITED STATES DEPARTMENT OF)
INTERIOR, BUREAU OF INDIAN)
AFFAIRS, ON BEHALF OF VIRGINIA)
POTTS ARNOLD GRIDER; 2))
OCCUPANTS OF THE PREMISES; 3))
BOARD OF COUNTY COMMISSIONERS)
OF TULSA COUNTY; 4) DENNIS SEMLER,)
TREASURER OF TULSA COUNTY; AND 5))
APPROXIMATELY 0.04 ACRES OF REAL)
PROPERTY LOCATED IN SECTION 8,)
TOWNSHIP 21 NORTH, RANGE 14 EAST)
OF THE INDIAN BASE AND MERIDIAN,)
TULSA COUNTY, OKLAHOMA ,)
DEFENDANTS.)

CASE No. 19-cv-00424-JED-FHM

JUDGE _____

COMPLAINT

The Plaintiff, the City of Owasso, Oklahoma, a municipal corporation (hereafter “**Plaintiff**”), and for its cause of action against the Defendants alleges and states as follows:

1. Plaintiff is a municipal corporation organized and existing under and by virtue of the Constitution and statutes of the State of Oklahoma under a charter form of government and is authorized by 25 U.S.C. § 357, its charter and the statutes of the State of Oklahoma to acquire, take, appropriate, and condemn private property for public purposes whenever such may become necessary for public convenience and use.

2. It is necessary for the public health, safety, and convenience for Plaintiff to acquire the following-described property and, by resolutions adopted by the Owasso City Council on May 21, 2019, copies of which are attached hereto and marked "**Exhibit A**", the City Council of the City of Owasso legally determined and declared the public necessity of taking, appropriating, condemning, and acquiring a Utility Easement and a Temporary Construction Easement in the following-described real property in Tulsa County, Oklahoma, to-wit:

Utility Easement:

A strip, piece or parcel of land lying in part of Section 8, Township 21 North, Range 14 East, IM, Tulsa County, State of Oklahoma. Said Parcel of land being described by metes and bounds as follows:

Commencing at the southwest corner of the Northwest Quarter (NW/4) of Section Eight (8), Township Twenty-one (21) North, Range Fourteen (14) East; thence, N 01° 24' 58" W along the west line of said Northwest Quarter (NW/4) of Section Eight (8), Township Twenty-one (21) North, Range Fourteen (14) East a distance of 1060.18 feet; thence, N 88° 43' 02" E a distance of 50.00 feet to the point of beginning; thence, N 01° 24' 58" W a distance of 130.23 feet; thence, N 88° 42' 12" E a distance of 10.00 feet; thence, S 01° 24' 58" E a distance of 130.23 feet; thence, S 88° 43' 18" W a distance of 10.00 feet to the point of beginning. Said area containing 1302.28 square feet (0.03 acres), more or less.

Temporary Construction Easement:

A strip, piece or parcel of land lying in part of Section 8, Township 21 North, Range 14 East, IM, Tulsa County, State of Oklahoma. Said Parcel of land being described by metes and bounds as follows:

Commencing at the southwest corner of the Northwest Quarter (NW/4) of Section Eight (8), Township Twenty-one (21) North, Range Fourteen (14) East; thence, N 01° 24' 58" W along the west line of said Northwest Quarter (NW/4) of Section Eight (8), Township Twenty-one (21) North, Range Fourteen (14) East a distance of 1157.44 feet; thence, N 88° 43' 02" E a distance of 60.00 feet to the point of beginning; thence, N 01° 24' 58" W a distance of 32.88 feet; thence, N 88° 42' 12" E a distance of 10.33 feet; thence, S 00° 31' 16" E a distance of 33.00 feet; thence, S 89° 28' 44" W a distance of 9.82 feet to the point of beginning. Said area containing 331.92 square feet (0.01 acres), more or less.

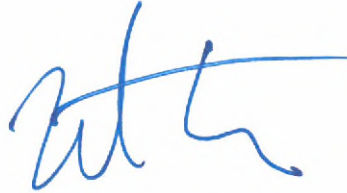
Said property hereinafter referred to as the "**Subject Property**".

3. The Board of County Commissioners of Tulsa County and Dennis Semler, County Treasurer of Tulsa County, Oklahoma, may claim some interest against the Subject Property for ad valorem taxes and personal property taxes due upon said property, and under the laws of the State of Oklahoma the County Treasurer is the collector of all State, County, and school district ad valorem taxes, and is made a party to this proceeding in order that any liens upon said land for ad valorem or personal property taxes may be asserted and determined, so that the interest obtained by Plaintiff/Condemnor be free and clear.

4. Plaintiff has endeavored to purchase and acquire said real estate from Defendant Virginia Potts Arnold Grider and has offered to pay the fair market value thereof but has been unable to acquire said real estate.

WHEREFORE, Plaintiff City of Owasso, Oklahoma prays an order of this Court appointing three disinterested freeholders as commissioners selected by the Judge of the U.S. District Court, as prescribed by law and without interest in any like question, to inspect the real property hereinbefore described and to consider the just compensation to which the owner of said land will be entitled by reason of the taking and appropriating of said land by Plaintiff, and that upon the payment of such damages as may be awarded, Plaintiff be thereupon granted said Utility Easement and Temporary Construction Easement on the above-described property, and be authorized to enter upon said land to take, appropriate, and use said property for the public purposes hereinbefore set forth.

DOERNER, SAUNDERS, DANIEL & ANDERSON, L.L.P.

A handwritten signature in blue ink, appearing to be 'S. Dodd', is written over a horizontal line.

By:_____

S. Douglas Dodd, OBA No. 2389
Nathan S. Cross, OBA No. 22535
Lauren R. Myers, OBA No. 32842
Two West 2nd Street, Suite 700
Tulsa, OK 74103
Telephone: (918) 591-5316
Facsimile: (918) 925-5316
sddodd@dsda.com
ncross@dsda.com
lmyers@dsda.com

**Attorneys for The City of Owasso,
Oklahoma**

5072239.1

**CITY OF OWASSO, OKLAHOMA
RESOLUTION 2019-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OWASSO, OKLAHOMA
RESOLVING THE NECESSITY OF INSTITUING AND PROSECUTING
CONDEMNATION PROCEDURES TO OBTAIN PROPERTY LOCATED AT 11301
NORTH GARNETT ROAD, OWASSO, OKLAHOMA**

WHEREAS: The City of Owasso, by and through officers and agents thereof, has endeavored to purchase certain property from Virginia Potts Arnold Grider, with the following legal description:

Utility Easement:

A strip, piece or parcel of land lying in part of Section 8, Township 21 North, Range 14 East, IM, Tulsa County, State of Oklahoma. Said Parcel of land being described by metes and bounds as follows:

Commencing at the southwest corner of the Northwest Quarter (NW/4) of Section Eight (8), Township Twenty-one (21) North, Range Fourteen (14) East; thence, N 01° 24' 58" W along the west line of said Northwest Quarter (NW/4) of Section Eight (8), Township Twenty-one (21) North, Range Fourteen (14) East a distance of 1060.18 feet; thence, N 88° 43' 02" E a distance of 50.00 feet to the point of beginning; thence, N 01° 24' 58" W a distance of 130.23 feet; thence, N 88° 42' 12" E a distance of 10.00 feet; thence, S 01° 24' 58" E a distance of 130.23 feet; thence, S 88° 43' 18" W a distance of 10.00 feet to the point of beginning. Said area containing 1302.28 square feet (0.03 acres), more or less.

Temporary Construction Easement:

A strip, piece or parcel of land lying in part of Section 8, Township 21 North, Range 14 East, IM, Tulsa County, State of Oklahoma. Said Parcel of land being described by metes and bounds as follows:

Commencing at the southwest corner of the Northwest Quarter (NW/4) of Section Eight (8), Township Twenty-one (21) North, Range Fourteen (14) East; thence, N 01° 24' 58" W along the west line of said Northwest Quarter (NW/4) of Section Eight (8), Township Twenty-one (21) North, Range Fourteen (14) East a distance of 1157.44 feet; thence, N 88° 43' 02" E a distance of 60.00 feet to the point of beginning; thence, N 01° 24' 58" W a distance of 32.88 feet; thence, N 88° 42' 12" E a distance of 10.33 feet; thence, S 00° 31' 16" E a distance of 33.00 feet; thence, S 89° 28' 44" W a distance of 9.82 feet to the point of beginning. Said area containing 331.92 square feet (0.01 acres), more or less.

WHEREAS: The acquisition of the property referenced above is necessary for public safety and to facilitate the widening of Garnett Road; and



WHEREAS: The City of Owasso, by and through officers and agents thereof, has made a bona fide, good faith offer to Virginia Potts Arnold Grider to purchase the land referenced above; and

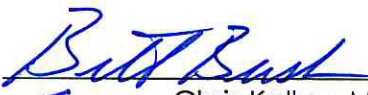
WHEREAS: Virginia Potts Arnold Grider has declined such offer of payment by the City of Owasso; and

WHEREAS: As provided under the Constitution and Statutes of the State of Oklahoma, it is necessary for the City of Owasso to condemn the property referenced above in the interest of public safety and for the widening of Garnett Road.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OWASSO, OKLAHOMA, THAT: It being necessary for public safety, the officers and agents of the City of Owasso, Oklahoma, are hereby authorized to initiate, and prosecute to the conclusion thereof, condemnation proceedings against Virginia Potts Arnold Grider, who has declined such offer of payment by the City of Owasso.

APPROVED this 21st day of May, 2019, by the City Council of the City of Owasso.

Attest: 
Juliann M. Stevens, City Clerk

CHRISTOPHER A. GARRETT
DEPUTY CITY CLERK

Vice Mayor
 Bill Bush
FOF Chris Kelley, Mayor

Approved As To Form: 
Julie Lombardi, City Attorney



APPROVED BY COUNCIL

MAY 21 2019

TO: The Honorable Mayor and City Council

FROM: Julie Trout Lombardi
City Attorney and General Counsel

SUBJECT: Resolution 2019-12, Authorization to Initiate Condemnation Proceedings to Acquire Property for the North Garnett Road Widening Project from East 106th Street to East 116th Street North

DATE: May 17, 2019

BACKGROUND:

The City of Owasso is currently in the process of acquiring private property along Garnett Road as public right-of-way (ROW) in accordance with the North Garnett Road Widening Project from East 106th Street North to East 116th Street North. Parcel No. 21 is located at 11301 North Garnett Road, and is owned by Virginia Potts Arnold Grider. An appraisal of the utility and temporary construction easements necessary on this property was performed on or about April 18, 2018. The value of the easements was found to be approximately \$6,999. However, there was little negotiation with the property occupant because it became immediately apparent that the occupant is legally unable to convey good title for the easements to the City. Therefore, it is necessary to condemn the property and allow a court to determine issues of title.

Based upon the foregoing, it has become apparent that condemnation is the sole mechanism available to the City to obtain the necessary easements on the Grider parcel. The easements in question will be utilized for a public purpose, therefore a condemnation action is both warranted and appropriate. Staff submits that a Resolution of Necessity authorizing the filing and prosecution of a condemnation action is appropriate and required to obtain needed utility and temporary construction easements on the Grider property.

RECOMMENDATION:

Staff recommends approval of Resolution 2019-12, authorizing the filing and prosecution of a condemnation action to obtain the necessary utility and temporary construction easements on the Grider property described therein.

ATTACHMENTS:

Proposed Resolution 2019-12
Appraisal dated April 18, 2018